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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

APLE.P0005

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on 11/13/06Signature Makou AliTyped or printed name Ali Makoui

Application Number

09/618,367

Filed

07/18/2000

First Named Inventor

Stan Jirman

Art Unit

2194

Examiner

Diem K Cao

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)☐ attorney or agent of record.
Registration number _____☒ attorney or agent acting under 37 CFR 1.34.Registration number if acting under 37 CFR 1.34 45,536Makou Ali
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11/13/2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 forms are submitted.

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Ali Makoui

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Stan Jirman, et al.

Serial No.: 09/618,367

Filing Date: 07/18/2000

For: EVENT LOGGING AND
PERFORMANCE ANALYSIS SYSTEM
FOR APPLICATIONS

Examiner: Diem K Cao

Group Art Unit: 2194

REMARKS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated 07/13/2006, please consider the followings remarks.

I. Claims 10-18

Claims 11-18 are dependent directly or indirectly on claim 10. Claim 10 recites a system that includes a foundational layer upon which applications are built or executed. The system also includes an event logging mechanism created by the foundational layer. The logging mechanism executes independently of the applications. The mechanism can generate an event log for any of the applications, without referencing any event logs of the applications. The logging mechanism can turn on or off at any time during the execution of the applications by an entity external to the applications.

Appellants respectfully submit that Niemi does not anticipate claim 10 for at least the following reasons. *First*, Niemi does not disclose an event logging mechanism that executes independent of the applications. In the Office Action, the Examiner has cited column 14, lines 46-63 and column 15, lines 43-48 of Niemi for disclosing an event logging mechanism that executes independent of the applications. The Examiner has further specified that: "[i]t is noted

that getting debug objects or states does not involve actions of an application program”. Appellants respectfully disagree with the Examiner’s characterization of the reference. As Figure 3 of Niemi illustrates, each application (306, 308, 310, and 312) includes several debug objects (340-360). Appellants respectfully submit that these debug objects are clearly shown inside these applications and are part of the logging mechanism. As disclosed in Niemi (for example, in column 9, lines 60-62 and column 10, lines 19-24), these debug objects are part of Niemi’s event logging mechanism. Accordingly, Appellants respectfully submit that Niemi does not disclose an event logging mechanism that executes independent of the applications.

Second, Niemi does not disclose creating an event logging mechanism by a foundational layer upon which applications are built or executed. In the Office Action, the Examiner has cited several entities such as the logging service layer (316, 318), network communication facility (332, 334), and centralized logger (236) as a foundational layer. Appellant respectfully submit that the Examiner has not identified which one of these alleged foundational layers is the one that creates the logging mechanism. Also, the Examiner has cited network management applications (208a, 208b) as applications that are built or executed upon the cited foundational layer.

Appellants respectfully submit that none of the entities cited by the Examiner are a foundational layer upon which applications are built or executed which also creates an event logging mechanism as cited in claim 10. Specifically, in the Office Action, the Examiner has cited logging service layer 316, 318, and centralized logger 236 of Niemi as an event logging mechanism. The Examiner has further cited the logging service layer 316, 318, network communication facility 332, 334, and centralized logger 236 of Niemi as foundational layers.

Appellants respectfully submit the network communication facility 332 and 334 of Niemi is used for communication and is not used for creating an event logging mechanism. Furthermore, neither the logging service layer 316, 318 nor the centralized logger 236 of Niemi are a foundational layer upon which applications are built and executed. *See*, Figure 3 of Niemi showing logging services layers 316 and 318 separate then applications 208a and 208b. *See also* discussion in Section I above regarding the centralized logger in Niemi being on a server separate than the workstations where the applications run. Therefore, none of the entities cited by the Examiner are a foundational layer that creates an event logging mechanism and upon which applications are built or executed.

Third, Niemi does not specify a logging mechanism that can turn on or off at any time during the execution of the applications by an entity external to the applications. In the Office

Action, the Examiner has cited column 14, lines 1-5 of Niemi as disclosing turning the logging mechanism at any time during the execution of the applications by an entity external to the application. Appellants respectfully submit that the cited paragraph discloses that the state of debug objects defined and instantiated at any application or process can be changed. As discussed above, the debug objects, as shown in Figure 3 of Niemi, are located inside the applications and are not external to these applications.

Accordingly, Appellants respectfully submit that the Niemi does not render claim 10 unpatentable. As Claims 11-18 are dependent on claim 10, Appellants respectfully submit that claims 11-18 are patentable over Niemi for at least the reasons that were discussed above in relation to claim 10. In view of the foregoing, Appellants respectfully request reconsideration and withdrawal of the §102(e) rejection of claims 10 and 13 and §103(a) rejection of claims 11-12 and 14-18.

II. Claims 23-29

Claims 24-29 are directly or indirectly dependent on claim 23. Claim 23 recites a system that includes a foundational layer upon which applications are executed. The system also includes a first application that can execute on the foundational layer. The system also includes a second application that can execute on the foundational layer. The system also includes an event-logging mechanism that can execute on the foundational layer. The event logging mechanism can function interoperably with but separately from the first and second applications. The event logging mechanism can generate an event log for each of the first and second applications. At least one of the first and second applications does not generate an event log. The event-logging mechanism is separate from the first and second applications and is not compiled with these applications.

Appellants respectfully submit that Niemi does not make claim 23 unpatentable for at least the following reasons. *First*, Niemi does not disclose, teach, or even suggest an event-logging mechanism that is separate from and is not compiled with the first and second applications. In the Office Action, the Examiner has cited logging service layer 316, 318 and centralized logger 236 of Niemi as an event-logging mechanism. Appellants respectfully submit that the logging mechanism of Niemi depends on debug objects and API calls that are embedded in the applications (*see*, Niemi, column 8, lines 11-13 and column 6, lines 34-38) and, therefore, has to be compiled with the applications. Therefore, Appellants respectfully submit that Niemi does not specify a logging mechanism that is separate and is not compiled with the applications.

Second, Niemi does not disclose an event logging mechanism that executes separately from the first and second applications. In the Office Action, the Examiner has cited Figure 3 of Niemi and has noted separate address spaces in Figure 3. Appellants respectfully disagree with the Examiner's characterization of the reference. As Figure 3 of Niemi illustrates, each application (306, 308, 310, and 312) includes several debug objects (340-360). Appellants respectfully submit that these debug objects are clearly shown inside these applications and are part of the logging mechanism. As disclosed in Niemi (for example, in column 9, lines 60-62 and column 10, lines 19-24), these debug objects are part of Niemi's event logging mechanism. Accordingly, Appellants respectfully submit that Niemi does not disclose an event logging mechanism that executes independent of the applications.

Accordingly, Appellants respectfully submit that the cited references do not render claim 23 unpatentable. As Claims 24-29 are dependent on claim 23, Appellants respectfully submit that claims 24-29 are patentable over Niemi for at least the reasons that were discussed above in relation to claim 23. In view of the foregoing, Appellants respectfully request reconsideration and withdrawal of the §103(a) rejection of claims 23-29.

III. Claim 30 are representative of claims 1-9, 19-20, 21-22, and 30-38

In the Office Action, the Examiner has rejected independent claims 1, 19, 21, and 30 under §103(a) as being unpatentable over Niemi in view of Ladwig. The Examiner has used the same arguments for rejecting all four claims. Claim 30 limitations are herein used to appeal all four claims. Furthermore, claims 2-9, claim 20, claim 22, and claims 31-38 are directly or indirectly dependent on their respective independent claims 1, 19, 21, and 30.

Claim 30 recites an event logging method. The method performs the following steps for several events that need to be logged but have not yet been logged within a group of applications. The method creates an event object. The method stores the event object in a first memory space that is uniquely allocated for the event logging method. The first memory space is separate from a second memory space that is allocated for the applications. The method logs within the event object the start time, end time and information regarding the event. The first and second memory spaces are within a third memory space of a single computer.

Appellants respectfully submit that the cited references do not disclose, teach, or even suggest all limitations of claim 30 for at least the following reasons. The cited references neither alone nor combined disclose, teach, or suggest logging the start time and the end time of an event in an event object that is within the memory space of the same single computer as the event

logging object and the applications. In the Office Action, the Examiner has correctly specified that Niemi does not teach logging start time and end time. Appellants respectfully submit that Ladwig also does not disclose logging the start time and the end time of an event in an event object that is within the memory space of the same computer as the event logging object and the applications. Specifically, in Ladwig, the applications are remote to the computer that receives the stream of data. *See*, e.g., claim 3 of Ladwig that recites a method of gathering data at a remote location and placing the gathered data in a data stream and forwarding the data stream to the computer. *See also*, Figure 2 of Ladwig that shows the hunter agent (175) and the gatherer agent (190) in a remote location from the presence computer (150).

Accordingly, Appellants respectfully submit that the cited references do not render claim 30 unpatentable. As claims 2-9, claim 20, claim 22, and claims 31-38 are dependent on their respective independent claims 1, 19, 21, and 30, Appellants respectfully submit that claims 2-9, claim 20, claim 22, and claims 31-38 are patentable over Niemi and/or Ladwig for at least the reasons that were discussed above in relation to claim 30. In view of the foregoing, Appellants respectfully request reconsideration and withdrawal of the §103(a) rejection of claims 1-9, 19-20, 21-22, and 30-38.

CONCLUSION

In view of the foregoing, it is submitted that all pending claims, namely claims 1-38 are in condition for allowance. Reconsideration of the rejections and objections is requested. Allowance is earnestly solicited at the earliest possible date.

Respectfully submitted,

STATTLER, JOHANSEN & ADELI LLP

Dated: 11/13/06

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